

Chapter 23.1

DEALERS IN PRECIOUS METALS AND GEMS*

Sec. 23.1-1. Definitions.

For the purposes of this chapter, the following definitions shall apply:

(1) Coin means any piece of gold, silver or other metal fashioned into a prescribed shape, weight and degree of fineness, stamped by authority of a government with certain marks and devices, and having a certain fixed value as money.

(2) Dealer means any person, firm, partnership, or corporation engaged in the business of:

(i) Purchasing secondhand precious metals or gems; (ii) removing in any manner precious metals or gems from manufactured articles not then owned by such person, firm, partnership, or corporation; or (iii) buying, acquiring, or selling precious metals or gems removed from such manufactured articles. "Dealer" shall mean all employers and principals on whose behalf a purchase is made, and any employee or agent who makes any such purchase for or on behalf of his employer or principal. This definition shall not be construed so as to include persons engaged in the following:

(a) Purchases of precious metals or gems directly from other dealers, manufacturers, or wholesalers for retail or wholesale inventories, provided the selling dealer has complied with the provisions of this chapter.

(b) Purchases of precious metals or gems from a duly qualified fiduciary who is disposing of the assets of the estate being administered by such fiduciary in the administration of an estate.

(c) Acceptance by a retail merchant of trade-in merchandise previously sold by such retail merchant to the person presenting that merchandise for trade-in.

(d) Repairing, restoring or designing jewelry by a retail merchant, if such activities are within his normal course of business.

(e) Purchases of precious metals or gems by industrial refiners and manufacturers, insofar as such purchases are made directly from retail merchants, wholesalers, dealers or by mail originating outside the City of Lynchburg.

(f) Persons regularly engaged in the business of purchasing and processing nonprecious scrap metals which incidentally may contain traces of precious metals recoverable as a by-product.

(3) Gems means any item containing precious or semiprecious stones customarily used in jewelry.

(4) Precious metals means any item except coins composed in whole or in part of gold, silver, platinum, or platinum alloys. (Ord. No. O-83-023, § 1, 2-8-83)

Sec. 23.1-2. Records to be kept; copy furnished to local authorities; inspection of records.

(a) Every dealer shall keep at his place of business an accurate and legible record, in English, of each purchase of precious metals or gems. The record of each such purchase shall be retained by the dealer for not less than twenty-four (24) months. These records shall set forth the following:

***Cross references**—Advertising, Ch. 3; city market, Ch. 13; junk and secondhand articles, § 23-1 et seq.; peddlers and solicitors, Ch. 29; tax code, Ch. 36; licenses for antique shows and sales, § 36-60; junk dealer's license, § 36-61; precious metals dealer's license, § 36-78; classified business and professional licenses, § 36-113 et seq.

(1) A complete description of all precious metals or gems purchased from each seller. The description shall include all names, initials, serial numbers or other identifying marks or monograms on each item purchased, the true weight or carat of any gem, and the price paid for each item;

(2) The date and time of receiving the items purchased; and,

(3) The name, address, age, sex, race, driver's license number or Social Security number, and signature of the seller.

(b) The information required by paragraph (a) of Section 23.1-2 shall appear on each bill of sale for all precious metals and gems purchased by a dealer, and a copy shall be mailed or delivered within twenty-four (24) hours of the time of purchase to the chief of police of the City of Lynchburg.

(c) Every dealer shall admit to his premises during regular business hours the chief of police of the City of Lynchburg, or his sworn designee, or any law enforcement official of the state or federal governments, and shall permit such law enforcement officer to examine all records required by this chapter, and to examine any article listed in a record which is believed by the officer of official to be missing or stolen. (Ord. No. O-83-023, § 1, 2-8-83)

Sec. 23.1-3. Cre den tials re quired from seller.

No dealer shall purchase precious metals or gems without first ascertaining the identity of the seller by requiring an identification issued by a governmental agency with a photograph of the seller thereon, and at least one other corroborating means of identification. The type of identification used by the seller shall be noted in the records required to be kept by dealers pursuant to Section 23.1-2 of this chapter. (Ord. No. O-83-023, § 1, 2-8-83)

Sec. 23.1-4. Pro hib ited pur chases.

(a) No dealer shall purchase precious metals or gems from any seller who is under the age of eighteen (18).

(b) No dealer shall purchase precious metals or gems from any seller who the dealer believes or has reason to believe is not the owner of such items, unless the seller has written and duly authenticated authorization from the owner permitting and directing such sale. (Ord. No. O-83-023, § 1, 2-8-83)

Sec. 23.1-5. Dealer to re tain pur chases.

(a) The dealer shall retain all precious metals or gems purchased for a minimum of ten (10) business days from the date on which a copy of the bill of sale is received by the chief of police of the City of Lynchburg. Until the expiration of this period, the dealer shall not sell, alter, or dispose of a purchased item in whole or in part, or remove it from the Lynchburg City Limits.

(b) If a dealer performs the service of removing precious metals or gems, he shall retain the metals or gems removed and the article from which the removal was made for a period of ten (10) business days after receiving such article and precious metals or gems. (Ord. No. O-83-023, § 1, 2-8-83)

Sec. 23.1-6. Re cord of dis po si tion.

Each dealer shall keep and maintain for at least twenty-four (24) months an accurate and legible record of the name and address of the person, firm, or corporation to which he sells any precious metal or gem in its original form after the waiting period required by Section 23.1-5. This record shall also show the name and address of the seller from whom the dealer purchased such item. (Ord. No. O-83-023, § 1, 2-8-83)

Sec. 23.1-7. Bond or letter of credit required of dealers when permit obtained.

(a) Every dealer shall secure a permit as required by Section 23.1-9, and each dealer at the time of obtaining such permit shall enter into a recognizance to the City of Lynchburg, secured by a corporate surety authorized to do business in the Commonwealth of Virginia, in the penal sum of ten thousand dollars (\$10,000.00) conditioned upon due observance of the terms of this chapter. In lieu of a bond, a dealer may cause to be issued by a bank authorized to do business in the Commonwealth of Virginia a letter of credit in favor of the City of Lynchburg in the sum of ten thousand dollars (\$10,000.00).

(b) A single bond upon an employer or principal may be written or a single letter of credit issued to cover all employees and all transactions occurring at a single location. (Ord. No. O-83-023, § 1, 2-8-83)

Sec. 23.1-8. Private action on bond or letter of credit.

If any person shall be aggrieved by the misconduct of any dealer who has violated the provisions of this chapter, he may maintain an action for recovery in any court of proper jurisdiction against such dealer and his surety; provided, that recovery against the surety shall be only for that amount of the judgment, if any, which is unsatisfied by the dealer. (Ord. No. O-83-023, § 1, 2-8-83)

Sec. 23.1-9. Permit required; method of obtaining permit; no convictions of certain crimes; approval of weighing devices; renewal; permanent location required.

(a) No person shall engage in the activities of a dealer as defined in Section 23.1-1 without first obtaining a permit from the chief of police of the City of Lynchburg.

(b) To obtain a permit, the dealer shall file with the chief of police an application form which shall include the dealer's full name, any aliases, address, age, sex and fingerprints; the name, address and telephone number of the applicant's employer, if any; and the location of the dealer's place of business. Upon filing this application and the payment of a two hundred dollar (\$200.00) application fee, not prorated, the dealer shall be issued a permit by the chief of police or his designee; provided, that the applicant has not been convicted of a felony or crime of moral turpitude within seven (7) years prior to the date of application. The permit shall be denied if the applicant has been denied a permit or has had a permit revoked under any ordinance similar in substance to the provisions of this chapter. (c) Before a permit may be issued, the dealer must have all weighing devices used in his business inspected and approved by local or state weights and measures officials and present written evidence of such approval to the chief of police.

(d) This permit shall be valid for one year from the date issued and may be renewed in the same manner as such permit was initially obtained with an annual permit fee of two hundred dollars (\$200.00), not prorated. No permit shall be transferable.

(e) If the business of the dealer is not operated without interruption, with Saturdays, Sundays, and recognized holidays excepted, the dealer shall notify the chief of police of all closings and reopenings of such business. The business of a dealer shall be conducted only from the fixed and permanent location specified in his application for a permit. (Ord. No. O-83-023, § 1, 2-8-83)

Sec. 23.1-10. Exemptions from chapter.

The chief of police for the City of Lynchburg, or his designee, may waive by written notice implementation of any one or more of the provisions of this chapter, except Section 23.1-4, for particular numismatic, gem, or antique exhibitions or craft shows sponsored by nonprofit organizations; provided, that the purpose of the exhibitions is nonprofit in nature, notwithstanding the fact that there may be casual purchases and trades made at such exhibitions. (Ord. No. O-83-023, § 1, 2-8-83)

Sec. 23.1-11. Penalties; first and subsequent offenses.

(a) Any person convicted of violating any of the provisions of this chapter shall be guilty of a Class 2 misdemeanor for the first offense. Upon conviction of any subsequent offense, he shall be guilty of a Class 1 misdemeanor.

(b) Upon the first conviction by any court of a dealer for violation of any provision of this chapter, the chief of police may revoke his permit to engage in business as a dealer under this chapter for a period of one full year from the date the conviction becomes final. Such revocation shall be mandatory upon a second conviction. (Ord. No. O-83-023, § 1, 2-8-83)

Sec. 23.1-12. Coins exempt.

The provisions of this chapter shall not apply to the sale or purchase of coins. (Ord. No. O-83-023, § 1, 2-8-83; Ord. No. O-83-169, 8-9-83)